

Name & Address:

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

OEURT M. SREY, an individual

PLAINTIFF(S)

v.

NCO FINANCIAL SYSTEMS, INC.

DEFENDANT(S).

CASE NUMBER

CV09-7064 SJO (RZx)

SUMMONS

TO: DEFENDANT(S): NCO FINANCIAL SYSTEMS, INC.

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Elizabeth J. Arleo, whose address is 1672 Main Street, Suite E, PMB 133, Ramona CA 92065. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: 29 SEP 2009By: Shirley Bonin

Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) OEURT M. SREY, an individual Los Angeles County, California	DEFENDANTS NCO FINANCIAL SYSTEMS, INC.
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) ARLEO LAW FIRM, PLC, ELIZABETH J. ARLEO 1672 Main Street, Suite E, PMB 133 Ramona, CA 92065 Tele: 760-789-8000	Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:33%; border: none;">Citizen of This State</td> <td style="width:10%; border: none; text-align: center;">PTF</td> <td style="width:10%; border: none; text-align: center;">DEF</td> <td style="width:33%; border: none;">Incorporated or Principal Place of Business in this State</td> <td style="width:10%; border: none; text-align: center;">PTF</td> <td style="width:10%; border: none; text-align: center;">DEF</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> 1</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 1</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 1</td> <td style="border: none;"><input type="checkbox"/> 4</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 4</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td style="border: none;">Citizen of Another State</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 2</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 2</td> <td style="border: none;">Incorporated and Principal Place of Business in Another State</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 5</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> 2</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 2</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 2</td> <td style="border: none;"><input type="checkbox"/> 5</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 5</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td style="border: none;">Citizen or Subject of a Foreign Country</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 3</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 3</td> <td style="border: none;">Foreign Nation</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 6</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 6</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> 3</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 3</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 3</td> <td style="border: none;"><input type="checkbox"/> 6</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 6</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF	DEF	Incorporated or Principal Place of Business in this State	PTF	DEF	<input type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 4	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 5	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6	<input type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 6	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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IV. ORIGIN (Place an X in one box only.)
☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)
CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No **MONEY DEMANDED IN COMPLAINT:** \$ over \$1,000

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 15 USC §1692 et seq.

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS	TORTS	PRISONER	LABOR
<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <div style="text-align: center;">REAL PROPERTY</div> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<div style="text-align: center;">PERSONAL INJURY</div> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <div style="text-align: center;">IMMIGRATION</div> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<div style="text-align: center;">PERSONAL PROPERTY</div> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <div style="text-align: center;">BANKRUPTCY</div> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <div style="text-align: center;">CIVIL RIGHTS</div> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<div style="text-align: center;">PETITIONS</div> <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <div style="text-align: center;">FORFEITURE / PENALTY</div> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <div style="text-align: center;">PROPERTY RIGHTS</div> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <div style="text-align: center;">SOCIAL SECURITY</div> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <div style="text-align: center;">FEDERAL TAX SUITS</div> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS (Third Party 26 USC 7604)

CV09-7064

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEETVIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- ☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Pennsylvania

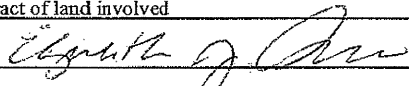
(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date September 25, 2009

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge S. James Otero and the assigned discovery Magistrate Judge is Ralph Zarefsky.

The case number on all documents filed with the Court should read as follows:

CV09- 7064 SJO (RZx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

===== :

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

COPY

Elizabeth J. Arleo (Bar No. 201730)
ARLEO LAW FIRM, PLC
1672 Main St., Suite E, PMB 133
Ramona, California 92065
Tel: (760) 789-8000
Fax: (760) 789-8081
Email: elizabeth@arleolaw.com

Attorneys for Plaintiff Oeurt M. Srey

2009 SEP 29 AM 11:51
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

OEURT M. SREY, an individual,

Plaintiff,

v.

NCO FINANCIAL SYSTEMS, INC.

Defendant.

Case No.:

COMPLAINT FOR DAMAGES

1. VIOLATION OF THE FEDERAL FAIR DEBT COLLECTION PRACTICES ACT
2. VIOLATION OF CALIFORNIA'S ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT
3. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
4. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

DEMAND FOR JURY TRIAL

1 Plaintiff, OEURT M. SREY ("Plaintiff"), based on information and belief and investigation
2 of counsel, except for those allegations which pertain to the Plaintiff or his attorney (which are
3 alleged on personal knowledge), hereby makes the following allegations:

4 **GENERAL ALLEGATIONS**

5 1. This action arises from Defendant's attempts to collect an alleged consumer debt
6 in violation of the federal Fair Debt Collection Practices Act, 15 U.S.C. §1692 *et seq.* ("FDCPA")
7 and California's Rosenthal Fair Debt Collection Practices Act, California Civil Code §1788-
8 1788.32 ("CA FDCPA").

9 2. The United States Congress has found abundant evidence of the use of abusive,
10 deceptive, and unfair debt collection practices by many debt collectors, and has determined that
11 abusive debt collection practices contribute to the number of personal bankruptcies, to marital
12 instability, to the loss of jobs, and to invasions of individual privacy. Congress wrote the FDCPA
13 to eliminate abusive debt collection practices by debt collectors, to insure that those debt
14 collectors who refrain from using abusive debt collection practices are not competitively
15 disadvantaged, and to promote consistent State action to protect consumers against debt collection
16 abuses. (15 U.S.C. §1692(a) – (e)).

17 3. The California legislature has determined that the banking and credit system and
18 grantors of credit to consumers are dependent upon the collection of just and owing debts and that
19 unfair or deceptive collection practices undermine the public confidence that is essential to the
20 continued functioning of the banking and credit system and sound extensions of credit to
21 consumers. The Legislature has further determined that there is a need to ensure that debt
22 collectors exercise this responsibility with fairness, honesty and due regard for the debtor's rights
23 and that debt collectors must be prohibited from engaging in unfair and deceptive acts or
24 practices.

25 4. Plaintiff brings this action to challenge Defendant's misconduct with regard to
26 Defendants' attempts to unlawfully, oppressively, fraudulently, and/or maliciously collect an
27 alleged debt claimed to be owed to Sallie Mae by Plaintiff which caused Plaintiff actual and
28

1 statutory damages.

2 **PARTIES**

3 5. Plaintiff is a natural person residing in Rosemead, a city in the County of Los
4 Angeles, and the State of California.

5 6. Plaintiff was obligated or allegedly obligated to pay a debt, and is, therefore a
6 "consumer" as that term is defined by 15 U.S.C. §1692a(3) of the FDCPA and a "debtor" as that
7 term is defined by Cal. Civ. Code §1788.2(h) of the CA FDCPA.

8 7. Defendant NCO Financial Systems Inc. is a public corporation engaged in the
9 business of collecting debts nationally, locally and within the State of California with its principal
10 place of business located at 507 Prudential Road, the Township of Horsham, the Commonwealth
11 of Pennsylvania, with a zip code of 19044. Defendant has offices located in the State of
12 California.

13 8. At all times material and relevant hereto, Defendant is a person which uses an
14 instrumentality of interstate commerce or the mails in a business, the principal purpose of which
15 is the collection of debts, or who regularly collects or attempts to collect, directly or indirectly,
16 debts owed or due or asserted to be owed or due another and is, therefore, a "debt collector," as
17 that term is defined by 15 U.S.C. §1692a(6) and Cal. Civil Code §1788.2(c) (as incorporated by
18 Cal. Business & Professions Code §6077.5).

19 9. Defendant is a "debt collector" as defined by the FDCPA, 15 U.S.C. §1692a(6).

20 10. Defendant is a "debt collector" as defined by the CA FDCPA, Cal. Civil Code §1788.2(c).

21 **JURISDICTION AND VENUE**

22 11. This Court has jurisdiction over this action pursuant to 15 U.S.C. §1692k(d), and
23 28 U.S.C. §1331. Supplemental jurisdiction for the state law claims arises pursuant to 28 U.S.C.
24 §1367.

25 12. Venue is proper in this district under 28 U.S.C. §1391(b) because Plaintiff lives in
26 this district and a substantial part of the events giving rise to Plaintiff's claims occurred in this
27 district.

1 13. Personal jurisdiction is established because Defendant does business in this district
2 and throughout the State of California.

3 **FACTUAL ALLEGATIONS**

4 14. On or about October 3, 2008, Defendant sent a collection letter to Plaintiff
5 (attached hereto as Exhibit 1) which is a "communication" in an attempt to collect a debt as that
6 term is defined by 15 U.S.C. §1692a(2)).

7 15. Plaintiff received it shortly thereafter.

8 16. The collection letter is attached hereto as Exhibit 1.

9 17. Exhibit 1 was mailed in an attempt to collect alleged debts arising from
10 transactions primarily for personal, family, or household purposes.

11 18. Defendant is not affiliated with the U.S. Department of Education.

12 19. Exhibit 1 seeks to collect a "Total: \$42,974.10" comprised of "Principal:
13 \$29,200.61"; "Interest: \$5,252.78"; and "Fees: "8,520.71."

14 20. Defendant did not and does not determine the course of legal action taken by the
15 U.S. Department of Justice with regard to such debts.

16 **CAUSES OF ACTION CLAIMED AGAINST DEFENDANT**

17 **FIRST CAUSE OF ACTION**

18 **(Violations of the Fair Debt Collection Practices Act (FDCPA)
19 15 U.S.C. § 1692, *et seq.*)**

20 21. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as
21 though fully stated herein.

22 22. Plaintiff allegedly incurred a financial obligation for primarily personal, family or
23 household purposes that is therefore a "debt" as that term is defined by 15 U.S.C. § 1692a(5).

24 23. The foregoing acts and/or omissions of Defendant constitute numerous and
25 multiple violations of the FDCPA, including but not limited to the following provisions of the
26 FDCPA:

27 (a) 15 U.S.C. §1692e and §1692e(2)(A) by making false, deceptive and
28 misleading representations as to the character, or legal status of the debt, i.e. Defendant's

1 entitlement to collection fees;

2 (b) 15 U.S.C. §1692e(5) by threatening to claim fees as the threat of an action
3 that cannot be legally taken or that was not intended to be taken;

4 (c) 15 U.S.C. §1692e(10) by the use of false and deceptive means to collect a
5 debt;

6 (d) 15 U.S.C. § 1692f by using any unfair or unconscionable means to collect
7 or attempt to collect the alleged debt; *and*

8 (e) 15 U.S.C. § 1692f(1) by attempting to collect any amount not authorized
9 by the agreement creating the debt or permitted by law, i.e., adding "Fees: "8,520.71."

10 24. As a result of Defendant's violations of the FDCPA, Plaintiff has suffered out-of-
11 pocket expenses and is therefore entitled to actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
12 statutory damages pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorneys' fees and
13 costs pursuant to 15 U.S.C. § 1692k(a)(3), from Defendant.

14 **SECOND CAUSE OF ACTION**

15 **(Violation of the Rosenthal Fair Debt Collection Practices Act
16 California Civil Code § 1788, *et seq.* (CA FDCPA))**

17 25. Plaintiff incorporates by reference the preceding paragraphs, as though set forth in
18 full herein and further alleges as follows.

19 26. This case involves money, property or other equivalent, due or owing or alleged to
20 be due or owing from a natural person by reason of a consumer credit transaction. As such, this
21 action arises out of a "consumer debt" and "consumer credit" as those terms are defined by Cal.
22 Civil Code §1788.2(f).

23 27. The foregoing acts and/or omissions of Defendant constitute numerous and
24 multiple violations of the CA FDCPA, including but not limited to the following actions taken
25 against Plaintiff:

26 (a) Defendant violated California Civil Code §1788.13(e) by the false
27 representation that the consumer debt may be increased by the addition of attorney's fees,
28

1 investigation fees, service fees, finance charges, or other charges when, in fact, such fees
2 or charges may not legally be added to the existing obligation; *and*

3 (b) Defendant violated California Civil Code §1788.17 by failing to comply
4 with the FDCPA as alleged above.

5 28. As a result of Defendant's violations of the CA FDCPA, Plaintiff has suffered out-
6 of-pocket expenses and is entitled to actual damages pursuant to California Civil Code
7 §1788.30(a), statutory damages for a knowing or willful violation pursuant to California Civil
8 Code section 1788.30(b), and reasonable attorneys' fees and costs pursuant to California Civil
9 Code section 1788.30(c) from Defendant.

10 **THIRD CAUSE OF ACTION**

11 **(Intentional Infliction of Emotional Distress)**

12 29. Plaintiff incorporates by reference all of the above paragraphs of this complaint as
13 though fully stated herein.

14 30. Defendant engaged in extreme, outrageous and unreasonable acts, in conscious
15 disregard of the law, as described above. These acts went beyond the bounds of decency
16 expected in a civilized society.

17 31. Defendant engaged in its outrageous conduct with the intent to cause Plaintiff to
18 suffer severe emotional distress and with the realization that injury to Plaintiff would result and/or
19 engaged in their outrageous conduct with reckless disregard of the probability of causing Plaintiff
20 to suffer severe emotional distress.

21 32. As a direct and proximate result of Defendant's outrageous conduct, Plaintiff has
22 suffered severe mental distress, mental suffering, and/or mental anguish, including fright,
23 nervousness, grief, anxiety, worry, humiliation, and indignity.

24 33. As a proximate result of Defendant's conduct, Plaintiff has suffered damages in an
25 amount to be determined according to proof.

26 34. Defendant acted with malice, oppression, and/or fraud toward, within the meaning
27 of Civil Code section 3294, thereby entitling Plaintiff to an award of punitive damages.

1 Defendant's corporate officers, directors, partners or managing agents are personally guilty of
2 oppression, fraud or malice, had advance knowledge of the unfitness of the employees who acted
3 towards with malice, oppression, or fraud, employed such employees with conscious disregard
4 for the rights or safety of others and/or themselves authorized or ratified the wrongful conduct.

5 **FOURTH CAUSE OF ACTION**

6 **(Negligent Infliction of Emotional Distress)**

7 35. Plaintiff re-alleges and incorporates herein each and every allegation set forth in
8 the preceding paragraphs, inclusive, as though fully set forth.

9 36. As alleged above, Defendant's conduct constituted a willful violation of statutory
10 obligations. As a result of Defendant's willful violation of statutory standards, Plaintiff has
11 suffered severe emotional distress, including, but not limited to, fright, nervousness, grief,
12 anxiety, worry, mortification, shock, humiliation and indignity.

13 37. Defendant's willful violation of statutory standards was a cause of Plaintiff's
14 severe emotional distress and Plaintiff is entitled to recover damages therefore, in an amount
15 according to proof at time of trial.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff prays that judgment be entered as follows:

18 **Fair Debt Collection Practices Act**

19 a) An award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1) in an amount to
20 be determined at trial;

21 b) An award of statutory damages of \$1,000 per violation pursuant to 15 U.S.C.
22 §1692k(a)(2)(A);

23 c) An award of costs of litigation and reasonable attorneys' fees pursuant to 15
24 U.S.C. § 1692k(a)(3) against Defendant in an amount to be determined at trial;

25 d) For any other relief that the court deems just and proper.

26 **California's Rosenthal Fair Debt Collection Practices Act**

27 e) For an award of actual damages pursuant to California Civil Code § 1788.30(a)
28

1 against Defendant in an amount to be determined at trial;

2 f) For an award of statutory damages statutory damages of \$1,000 per violation
3 pursuant to California Civil Code § 1788.30(b);

4 g) For an award of costs of litigation and reasonable attorneys' fees pursuant to
5 California Civil Code § 1788.30(c):

6 h) For any other relief that the court deems just and proper.

7 Intentional Infliction of Emotional Distress

8 i) For an award of actual, compensatory and incidental damages in an amount to be
9 proved at time of trial;

10 j) For an award of punitive damages in an amount to be determined at trial because
11 defendants' actions were oppressive, fraudulent or malicious.

12 k) For any other relief that the court deems just and proper.

13 Negligent Infliction of Emotional Distress

14 l) For an award of actual, compensatory and incidental damages in an amount to be
15 proved at time of trial;

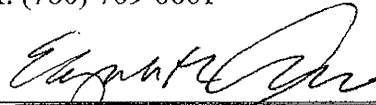
16 m) For any other relief that the court deems just and proper.

17 TRIAL BY JURY

18 Plaintiff is entitled to and demands a trial by jury.

19 Dated: September 25, 2009

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23 

24 Elizabeth J. Arleo

25 Attorney for Plaintiff

EXHIBIT 1

Department 300
1804 Washington Blvd.
Baltimore, MD 21230

NCO FINANCIAL SYSTEMS, INC.

Calls to or from this company may be monitored or
recorded for quality assurance.

800-688-4190
OFFICE HOURS:
8AM-9PM MON THRU THURSDAY
8AM-5PM FRIDAY
8AM-12PM SATURDAY
October 3, 2008

Personal & Confidential

OEURT M SREY
11154 BONWOOD RDAPT
2
EL MONTE CA 91733

Principal: \$29,200.61
Interest: \$5,252.78
Fees: \$8,520.71
Total: \$42,974.10

RE: SALLIE MAE - 5680198

A partial payment has been received and credited to your account with the creditor.

Call this office to discuss the terms of your repayment.

This is an attempt to collect a debt. Any information obtained will be used for that purpose. This is a
communication from a debt collector.

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT (MAKE SURE ADDRESS BELOW SHOWS THROUGH WINDOW)

Account #	Due Date	Total Balance
5680198		\$ 42,974.10

OEURT M SREY - SALLIE MAE

Payment Amount



\$

Check here if your address has changed and print
your new address in the space provided below.

Send Payment To:

|||||
NCO FINANCIAL SYSTEMS, INC.
P.O. BOX 17295
BALTIMORE, MD 21297

NCO 111
- 1239

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